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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,661	06/27/2003	David W. Koenig	KCC 4948 (K-C 17,907)	7070

321 7590 07/13/2006

SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,661

Applicant(s)

KOENIG ET AL.

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

Applicant's arguments, see Remarks, filed June 21, 2006, with respect to the rejection of claims 1, 3-10, 12-19, 21-23 and 25-30 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection of claims 1, 3-10, 12-19, 21-23 and 25-30 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a different interpretation of a previously presented prior art reference.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard et al (U.S. Patent No. 6,552,171).

With respect to **Claims 1,10**: Howard teaches a hydrolyzed jojoba protein solution for use in skin lotions, creams, and sanitizing wipes (Col. 3, lines 4,5,11,12). Howard teaches compositions for hand lotion (Col. 8, Table 6) and hand cream (Col. 9, Table 7) comprising said jojoba protein solution, as well as Yucca extract and green tea extract, which contains catechin,

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considered here as a broad spectrum antimicrobial. Howard does not explicitly teach a wipe substrate, however since Howard teaches that said solution is intended for use on a sanitizing wipe, it would be obvious to one of ordinary skill in the art to apply said solution to a sanitizing wipe substrate.

With respect to **Claim 2,11,20,24**: Howard does not explicitly teach 100% Yucca Schidigera powder, however yucca extract as used in the food and cosmetic industries is widely known to be in pure powder form from the Yucca Schidigera plant. Therefore it would be obvious to one of ordinary skill in the art to use 100% Yucca Schidigera powder as is taught implicitly by Howard.

With respect to **Claims 3 and 4**: Howard teaches that the hand lotion and hand cream solutions comprising the jojoba protein both comprise Yucca extract present in 0.03% by weight (Col. 8, Table 6).

With respect to **Claim 5**: Howard teaches that the hand lotion and hand cream solutions also contain green tea extract (Col. 8, Table 6 and Col. 9, Table 7) whose active ingredient is catechin, which has widely known antioxidant and antimicrobial uses.

With respect to **Claims 7 and 8**: Howard teaches that the green tea extract is present in both the hand lotion and hand cream solutions in 0.05% by weight (Col. 8, Table 6 and Col. 9, Table 7) Therefore the catechin is present in at most 0.05% by weight of the solution.

With respect to **Claim 9**: Howard teaches that the hand lotion and hand cream solutions are also comprised of goldenrod extract, used as an astringent in both solutions (Col. 8, Table 6 and Col. 9, Table 7).

With respect to **Claims 12 and 13**: Howard teaches that the hand lotion and hand cream solutions comprising the jojoba protein both comprise Yucca extract present in 0.03% by weight (see Col. 8, Table 6).

With respect to **Claims 14 and 15**: Howard teaches that the hand lotion and hand cream solutions also contain green tea extract whose active ingredient is catechin, which has widely known antioxidant and antimicrobial uses.

With respect to **Claims 16 and 17**: Howard teaches that the green tea extract is present in both the hand lotion and hand cream solutions in 0.05% by weight (Col. 8, Table 6 and Col. 9, Table 7) Therefore the catechin is present in at most 0.05% by weight of the solution.

With respect to **Claim 18**: Howard teaches that the hand lotion and hand cream solutions are also comprised of goldenrod extract, used as an astringent in both solutions (Col. 8, Table 6 and Col. 9, Table 7).

With respect to **Claims 19,23**: With respect to the step of contacting the skin with a wet wipe, Howard teaches a jojoba solution (liquid formulation) comprising yucca extract to be used as hand lotion or hand cream. (Col. 9, Table 7) With respect to claim 23, Howard also teaches that said formulation comprises catechin, a natural broad spectrum antimicrobial derived from green

tea leaves. Howard does not explicitly teach a wet wipe comprising a wipe substrate. However, since Howard teaches that said solution is intended for use on a sanitizing wipe, it would be obvious to one of ordinary skill in the art to apply said solution to a sanitizing wipe substrate that is capable of reducing the growth rate of Gram negative bacteria and yeast on the surface of the skin while not substantially affecting the growth rate of Gram positive bacteria. Howard also does not explicitly teach contacting the skin with said substrate and said formulation, however, Howard teaches that the solutions are intended for use in application to the surface of a user's skin and that such solutions are intended for use on a sanitizing wipe, therefore it would be obvious to one of ordinary skill in the art to contact a user's skin with a wet wipe having a wipe substrate with the liquid formulation taught by Howard disposed thereon, as such formulation is intended for use on a sanitizing wipe and imparts health benefits to the skin.

With respect to **Claims 21 and 22**: Howard teaches that the hand lotion and hand cream solutions comprising the jojoba protein both comprise Yucca extract present in 0.03% by weight (see Col. 8, Table 6 and Col. 9, Table 7).

With respect to **Claims 25 and 26**: Howard teaches that the hand lotion and hand cream solutions comprising the jojoba protein both comprise Yucca extract present in 0.03% by weight (see Col. 8, Table 6).

With respect to **Claims 27 and 28**: Howard teaches that the hand lotion and hand cream solutions also contain green tea extract whose active ingredient is catechin, which has widely known antioxidant and antimicrobial uses.

With respect to **Claims 29 and 30**: Howard teaches that the green tea extract is present in both the hand lotion and hand cream solutions in 0.05% by weight (Col. 8, Table 6 and Col. 9, Table 7) Therefore the catechin is present in at most 0.05% by weight of the solution.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

